SBCivil Writ Petition No.1119/2006

Rameshwar Singh Bhati
Vs.
State of Rajasthan & Ors.

Date of Order :: 14th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kuldeep Mathur, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

....

By an order dated 30.9.2004 the petitioner was transferred as Junior Engineer to Panchayat Samiti, Sojat from Panchayat Samiti, Marwar Junction. In light of the instructions given by Government of Rajasthan on 8.10.2004, according to the petitioner, the order of transfer was to be kept in abeyance and he was to be continued at Panchayat Samiti, Marwar Junction but the respondents relieved him from duties on 11.10.2004. Being aggrieved by the same and also by order dated 30.9.2004 the petitioner preferred a writ petition before this Court that came to be disposed of on 20.10.2004 with a direction to the respondents to consider and decide the representation submitted by the petitioner ventilating his grievance. The petitioner accordingly submitted a joining report at Panchayat Samiti, Marwar Junction on 27.10.2004 and also submitted a representation to the authority competent on 16.11.2004. Certain documents marked as Anx.14 collectively are placed on record by the

petitioner to establish his working with Panchayat Samiti, Marwar Junction after 27.10.2004, in the capacity of Junior Engineer. In all the documents referred above the petitioner is designated as Junior Engineer, Panchayat Samiti, Marwar Junction and all these documents pertain to the dates subsequent to 27.10.2004. The Government of Rajasthan by an order dated 2.4.2005 rejected the representation submitted by the petitioner on 16.11.2005, therefore, he was relieved from Panchayat Samiti, Marwar Junction under an order dated 13.7.2005 passed by Vikas Adhikari, Panchayat Samiti, Marwar Junction.

The grievance sought to be redressed by this petition for writ is that though the petitioner worked as Junior Engineer, Panchayat Samiti, Marwar Junction during the period commencing from the month of October, 2004 to 13.7.2005 but no salary for the term aforesaid is paid to him by the respondents.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the petitioner was relieved from Panchayat Samiti, Marwar Junction on 11.10.2004, therefore, he could not be treated to be working with Panchayat Samiti aforesaid and as such the claim for salary is misconceived.

In rejoinder the petitioner has reiterated his claim by placing the documents marked as Anx.14

(collectively) to prove that he was working with Panchayat Samiti, Marwar Junction as Junior Engineer and, therefore, he is entitled to get the salary.

Heard counsel for the parties.

By order dated 30.9.2004 the petitioner was transferred from Panchayat Samiti, Marwar Junction to Panchayat Samiti, Sojat and he was relieved from Panchayat Samiti, Marwar Junction on 8.10.2004. The petitioner submitted an another joining report with Panchayat Samiti, Marwar Junction on 27.10.2004 and from perusal of documents marked as Anx.14 it reveals that he was allowed to continue as a Junior Engineer in Panchayat Samiti, Marwar Junction . From perusal of various orders placed on record it is apparent that the petitioner discharged various duties with Panchayat Samiti, Marwar Junction to the extent that he was appointed as officer incharge on behalf of the Panchayat Samiti concerned in various cases pending before this Court as well as in other courts. The document dated 13.7.2005 (Anx.7) also establishes it well that the petitioner was working with Panchayat Samiti, Marwar Junction and he was relieved from the Panchayat Samiti aforesaid on 13.7.2005. It may be a different question as to whether the petitioner was rightly allowed to join duties at Panchayat Samiti, Marwar Junction on 27.10.2004 but in any event the working of the petitioner with Panchayat Samiti,

Marwar Junction on rejoining on 27.10.2004 cannot be disputed in view of the documents placed on record (Anx.7 and Anx.14[collectively]). The Panchayat Samiti, Marwar Junction has utilised services of the petitioner and, therefore, it cannot be permitted to shirk from the liability to make payment of wages to the petitioner, otherwise the same shall be in violation of Article 23 of the Constitution of India that protects a citizen of this country from all forms of forced labour.

In view of it, this petition for writ deserves acceptance. The same, therefore, is allowed. The respondents are directed to make payment of salary to the petitioner for the period commencing from the month of October, 2004 to 13.7.2005 on or before 31.10.2006.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.